

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of this application in view of the foregoing amendment to the Specification, the attached terminal disclaimer, and the following comments.

Summary of the Office Action and Response

In the Office Action dated June 25, 2007, claims 13-32 were examined and rejected as follows:

- Claims 13-17, 20-22, 27 and 29-32 were rejected under 35 U.S.C. § 103(a), as allegedly obvious over U.S. Patent No. 6,638,450 to Richard (the "Richard patent") in view of U.S. Patent No. 5,110,514 to Soane (the "Soane patent") and U.S. Patent No. 4,929,707 to Nagata *et al.* (the "Nagata patent").
- Claims 18 and 23-26 were rejected under 35 U.S.C. § 103(a), as allegedly obvious over the Richard patent in view of the Soane patent, the Nagata patent, and further in view of U.S. Patent No. 5,746,949 to Shen *et al.* (the "Shen patent").
- Claims 19, 24 and 28 were rejected under 35 U.S.C. § 103(a), as allegedly obvious over the Richard patent in view of the Soane patent, the Nagata patent, and further in view of U.S. Patent No. 4,693,446 to Orlosky (the "Orlosky patent").
- Claims 13-32 were rejected on the grounds of nonstatutory obviousness-type double patenting, as allegedly unpatentable over claims 1-17 of U. S. Patent No. 6,391,231 to Evans *et al.* (the "Evans patent") in view of the Soane patent and the Nagata patent.

Applicants respectfully traverse these rejections for the reasons set forth below.

In response to these rejections, Applicants have amended the specification to include a claim of priority to U.S. Patent No. 6,391,231 to Evans *et al.* (the "Evans patent") and to Provisional Application No. 60/109,498. Applicants also attach a terminal disclaimer executed by an officer of the Assignee company, Younger Mfg. Co. DBA Younger Optics, which disclaims the terminal part of the statutory term of any

patent granted from this application that would extend beyond the expiration date of the Evans patent.

These rejections are discussed below.

I. The Rejections of Claims Under 35 U.S.C. § 103(a)

The present invention resides in a method of manufacturing an optical-quality polarized part, using a mold cavity defined in part by a special sidefill gasket and using a special liquid-phase polymeric material that is formulated to set within about 30 seconds to form a high-impact polyurethane-based optical construct.

All of the § 103(a) rejections of claims 13-32 rely at least in part on the Richard patent, “for reasons of record.” In previous office actions, the Examiner had cited the Richard patent for its disclosure of a basic injection molding apparatus with “injection occurring from the side – i.e., a side-fill gasket” [Office Action dated June 1, 2006, page 2], and he further had stated “the method of Richard uses a structure that would include a sidefill gasket with one or more inlet port holes (see 42 in Fig. 5) and that the injection of the material is such that it flows above and below the polarizer film 12 – see column 5, lines 13-20” [Office Action dated November 7, 2006, page 2].

The Richard patent issued from an application filed September 10, 2001, which claimed priority from a provisional application filed November 2, 2000. Thus, its earliest possible priority date is November 2, 2000. This date is *after* Applicants completed at least as much of their claimed invention as the Examiner has alleged is disclosed by the Richard patent. For this reason, the Richard patent is *not* properly classified as prior art to these claims.

Applicants’ completion of at least the portion of their claimed invention allegedly disclosed by the Richard patent is evidenced by the disclosure of the Evans patent, identified above. The Evans patent issued from an application filed November 22, 1999, which claimed priority from a provisional application filed November 23, 1998. Both of these filing dates *predate* the Richard patent’s earliest possible priority date.

The Evans patent's disclosure of as much of Applicants' presently claimed invention as the Examiner has alleged is disclosed by the Richard patent is identified as follows:

- "a side-fill gasket." (See, e.g., the Title of the Invention, the Abstract of the Disclosure, and FIGS. 1A and 1B of the Evans patent.)
- "a sidefill gasket with one or more inlet port holes." (Evans patent, col. 4, lines 33-43.)
- "injection of the material is such that it flows above and below the polarizer." (Evans patent, col. 2, lines 17-28; col. 5, lines 53-55; Examples 5 and 6; and claims 1, 9 and 11.)
- the sidefill gasket is used with "an embedded layer" (see claims 1, 9 and 11), and polarizers are among the embedded layers specifically contemplated (col. 5, lines 12-13; col. 5, line 20; and claims 7 and 17).

Thus, the Evans patent discloses as much of Applicants' presently claimed invention as the Examiner has alleged is disclosed by the Richard patent. For this reason, the Richard patent is *not* properly classified as prior art under 35 U.S.C. §§ 102(e)/103. Because all of the § 103 rejections of claims are based at least in part on the Richard patent, these rejections are improper and should be withdrawn.

II. The Non-Statutory Double-Patenting Rejection

As mentioned above, claims 13-32 also were rejected on the grounds of nonstatutory obviousness-type double patenting, as being allegedly unpatentable over claims 1-17 of the Evans patent in view of the Soane and Nagata patents. The Examiner commented on this rejection as follows, at page 4 of the Office Action:

US patent -231 sets forth similar subject matter to the instant claims lacking essentially the aspects of having an adjacent reservoir for supplying additional material and using a polyurethane. As noted supra, Soane -514 and Nagata et al teach these aspects. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the method of US Patent -231 as taught by Soane -514 and Nagata et al dependent on the exact materials used and the optical properties for the final lens.

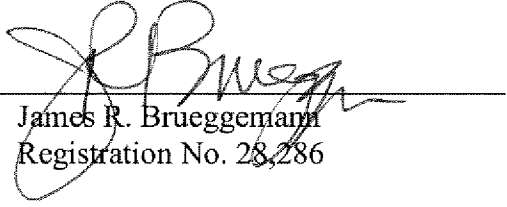
Applicants attach to this Amendment a terminal disclaimer to overcome this rejection. The Evans patent and this present application both are assigned to the same assignee. In fact, the inventors named in the Evans patent are identical to those named for this application. With this terminal disclaimer, this non-statutory double patenting rejection should now be withdrawn.

Conclusion

This application should now be in condition for a favorable action. Issuance of a notice of allowance is respectfully requested. If the Examiner believes that a telephone conference with Applicants' undersigned attorney of record might expedite the prosecution of this application, he is invited to call at the telephone number indicated below.

Respectfully submitted,
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